

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

TOWNSEL MYERS, JR.,

Petitioner,

VS.

WILLIAM STEPHENS,

Respondent.

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CIVIL ACTION NO. 2:14-CV-00114

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Pending before the Court is Respondent Stephens's Motion for Summary Judgment (D.E. 64). On January 16, 2015, United States Magistrate Judge B. Janice Ellington issued a Memorandum and Recommendation (D.E. 93), recommending that Respondent's Motion for Summary Judgment be granted. Petitioner filed his Objections (D.E. 94) on February 2, 2015.

The motion and the Magistrate Judge's Memorandum and Recommendation are based on the fact that Petitioner's habeas corpus action is second or successive. Thus the Magistrate Judge recommended dismissal without prejudice because this Court does not have jurisdiction over successive habeas corpus actions absent Fifth Circuit Court of Appeals approval.

Petitioner's objections focus on his own alleged mental incapacity, lack of legal training and access to the law library, and conclusory denial of the charges on which he was convicted as well as conclusory refutations of the Magistrate Judge's recommended holdings. The objections are insufficient to support any modification of the factual or


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legal analysis of the matters before the Court.

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's Memorandum and Recommendation, as well as Petitioner's Objections, and all other relevant documents in the record, and having made a *de novo* disposition of the portions of the Magistrate Judge's Memorandum and Recommendation to which objections were specifically directed, the Court **OVERRULES** Petitioner's Objections and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. Accordingly,

- Respondent's Motion for Summary Judgment (D.E. 64) is **GRANTED**;
- Petitioner's attempts to raise § 1983 claims related to the conditions of his confinement (see D.E. 50, 52, 53, 55, 57, 60, 68, 69, 81, 83-87, 89 and 90) are hereby **STRICKEN WITHOUT PREJUDICE** to file such claims in the Houston Division of the Southern District of the United States where he is incarcerated;
- This action is **DISMISSED WITHOUT PREJUDICE**; and
- Petitioner's request for a Certificate of Appealability (D.E. 94, p. 2) is **DENIED**.

ORDERED this 4th day of February, 2015.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE